

CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Teleconference Location
320 West 4th Street, Suite 620
Los Angeles, California

Public Session Location
Civic Center - Benecia Room
455 Golden Gate Avenue
San Francisco, California

Closed Session Location
Civic Center - Benecia Room
455 Golden Gate Avenue
San Francisco, California

SUMMARY MINUTES - DECEMBER 1-2, 2004

FULL BOARD MEETING MINUTES¹

DECEMBER 1, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Ron Alvarado, Vice President
Sean Harrigan, Member
Anne Sheehan, Member
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura

- A.** The SPB's Secretariat is being reorganized to improve its performance and accountability to the Board.
- B.** The SPB staff has discussed its new EEO draft statutory language with Agency and other interested parties. It is now incorporating many of the suggestions with the view toward submission of such draft to the Legislature in December.
- C.** Several new hires started work in November giving much needed help to our remaining staff, particularly in the Appeals Division.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

Connerly v. SPB --- Hearing set for 11/30 did not proceed. Attorneys fees award have been paid in full.

Ortega v. SPB --- Still one case pending in Court of Appeal. Ortega challenges dismissal of her petition for writ of mandate for failure to prosecute.

Other:

Alvin Gittisriboongul has accepted a position with the Office of the Attorney General, in their Correctional Law Unit. He will leave SPB by the end of the year.

4. NEW BUSINESS

None

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

5. REPORT ON LEGISLATION - Sherry Hicks

None presented.

6. ELECTION OF BOARD OFFICERS AND PERS REPRESENTATIVE

Mr. Elkins was nominated and elected as President. Ms. Tom was nominated and elected Vice President. Mr. Alvarado was nominated and elected as PERS Representative. Mr. Elkins and Mr. Harrigan voted for Mr. Harrigan; Ms. Sheehan, Mr. Alvarado, and Ms. Tom voted for Mr. Alvarado. Ms. Tom gave a statement regarding the PERS nomination.

7. ORAL ARGUMENT

Oral argument in the matter of **ROYCE HENSON, CASE NO. 02-3510E**. Appeal from retaliation complaint. Staff Services Manager II (Supervisor). Department of Fire and Forestry Protection.

Persons participating:

Peter W. Thompson, Deputy Attorney General, Department of Justice, represented Department of Fire and Forestry Protection. Appellant had no representative.

ACTION: The Board rejected the Administrative Law Judge's decision and remanded the matter to another Administrative Law Judge.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

8. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9. INFORMATIONAL HEARING - BUREAU OF STATE AUDITS REPORT NO. 2004-105, ISSUED OCTOBER 2004, CONCERNING DISCIPLINE IN THE DEPARTMENT OF CORRECTIONS.

Representatives from the Bureau of State Audits, Department of Corrections, Office of the Inspector General, and the California Correctional Peace Officer's Association, attended in order to discuss the Bureau of State Audit's findings and recommendations.

Persons participating:

Ben Sybsyma, Chief Counsels, CCPOA

Debra Ashbrook, Assistant Chief Counsel, Department of Corrections

Elaine M. Howle, State Auditor, Bureau of State Audits
Joe McGrath, Assistant Director, Department of Corrections
Kathleen Keeshen, Chief Counsel, Department of Corrections
Matt Cate, Inspector General, Office of the Inspector General
Tyler Covey, CPA, CMA, Bureau of State Audits

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

11. ORAL ARGUMENT

Oral argument in the matter of **DANNY BOYD, CASE NO. 03-1537P**. Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority.

Persons participating:

Abel D. Ramirez. Staff Counsel, Department of the Youth Authority, represented the department. Chris Uyemura, Staff Legal Counsel, California Correctional Peace Officers Association, represented the appellant. The appellant appeared by teleconference from Los Angeles.

ACTION: Submitted

CLOSED SESSION OF THE STATE PERSONNEL BOARD

12. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

13. ORAL ARGUMENT

Oral argument in the matter of **EDWARD LIMON, CASE NO. 04-0233**. Appeal from dismissal. Parole Agent I. Department of Youth Authority.

Persons participating:

Abel D. Ramirez. Staff Counsel, Department of the Youth Authority, represented the department. Appellant was not present.

ACTION: Submitted

CLOSED SESSION OF THE STATE PERSONNEL BOARD

**14. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,
AND OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE
LAW JUDGES**

Deliberations on matters submitted at prior hearings; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by Administrative Law Judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

A D J O U R N M E N T

FULL BOARD MEETING MINUTES²

DECEMBER 2, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Ron Alvarado, Vice President
Sean Harrigan, Member
Anne Sheehan, Member
Maeley Tom, Member

2. ORAL ARGUMENT

Oral argument in the matter of **RICHARD HARMON, CASE NO. 03-3739**. Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services.

Persons participating:
None - written record only.

ACTION: Submitted

CLOSED SESSION OF THE STATE PERSONNEL BOARD

3. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY THE ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by Administrative Law Judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

4. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code Sections 11126(e)(1) and 18653.]

² The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

State Personnel Board v. Department of Personnel Administration, California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association, California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court Case No. S125502.

International Union of Operating Engineers v. State Personnel Board, Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

California Attorneys, Administrative Law Judges and Hearing Officers in State Employment, v. Department of Industrial Relations and California State Personnel Board, Sacramento Superior Court No.: 04CS00677

Caltrans v. SPB (Torossian)

Larry Moore v. SPB

5. RECOMMENDATIONS TO THE LEGISLATURE

The Board deliberated on recommendations to the Legislature as listed in the agenda. [Government Code Section 18653.]

6. RECOMMENDATIONS TO THE GOVERNOR

The Board deliberated on recommendations to the Governor as listed in the agenda. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

7. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF DECEMBER 14, 2004, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS

8. ADOPTION OF STATE PERSONNEL BOARD SUMMARY MINUTES

None submitted

9. ACTION ON SUBMITTED ITEMS

(See Minutes - Page 25)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list

does not include evidentiary cases, as those cases are listed separately by category in these Minutes under Evidentiary Cases.

10. EVIDENTIARY CASES

The Board Administrative Law Judges (ALJ) conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

**ANN R. ABIERAS, CASE NO. 04-0531A AND
EVELYN B. CORPUS, CASE NO. 04-0529A**

Appeal from ten-percent reduction in salary for twelve months
Psychiatric Technician Assistants
Department of Developmental Services

ACTION: Submitted

NICHOLAS COMAITES, CASE NO. 03-0062A

Appeal from official reprimand
Correctional Counselor II
Department of Corrections

AND

PAUL WARD, CASE NO. 03-0332A

Appeal from official reprimand
Correctional Administrator
Department of Corrections

ACTION: Submitted

DEBRA GREENE, CASE NO. 03-0621A

Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles

ACTION: Submitted

CONNIE JOHNSON, CASE NO. 03-2620R

Appeal from 30-calendar-days suspension
Employment Program Representative
Employment Development Department

ACTION: Submitted

VIRGINIA PARKER, CASE NO. 03-0325A

Appeal from demotion
Correctional Lieutenant
Ironwood State Prison - Blythe
Department of Corrections

ACTION: Submitted

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable accommodation
Correctional Sergeant
Central California Women's Facility - Chowchilla
Department of Corrections

ACTION: Submitted

DENNIS UYEDA, CASE NO. 03-2396A

Appeal from five-working-days suspension
Latent Print Analyst II
Department of Justice

ACTION: The Board adopted the ALJ's proposed decision modifying the 10-working-days suspension to an official reprimand.

GARY WHALEY, CASE NO. 03-1420A

Appeal from discrimination
Employment Program Representative
Employment Development Department

ACTION: Submitted

B. CASES PENDING

Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

DANNY BOYD, CASE NO. 03-1537PA

Appeal from dismissal
Youth Correctional Officer
Department of Youth Authority

ACTION: Submitted

RICHARD HARMON, CASE NO. 03-3739A

Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services

ACTION: Submitted

ROYCE HENSON, CASE NO. 02-3501EA

Appeal from whistleblower retaliation compliant
Staff Services Manager II (Supervisor)
Department of Forestry and Fire Protection

ACTION: The Board rejected the ALJ's decision and remanded the matter to another ALJ.

EDWARD LIMON, CASE NO. 04-0233A

Appeal from dismissal
Parole Agent I
Department of the Youth Authority

ACTION: Submitted

C. CHIEF COUNSEL RESOLUTIONS

JULIE GAONA, CASE NO. 04-1222

Appeal from dismissal
Correctional Officer
Ironwood State Prison - Blythe
Department of Corrections

ACTION: Denied

STAFFORD LEWIS, CASE NO. 99-5021B

Appeal from dismissal
Correctional Sergeant
Folsom State Prison - Represa
Department of Corrections

ACTION: Granted

Court Remands

These cases have been remanded to the Board by the court for further Board action.

None

Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

None

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

WANDA ALLEN, CASE NO. 04-1072E

Appeal from denial of request for reasonable accommodation
Motor Vehicle Field Representative
Department of Motor Vehicles

ACTION: The Board adopted the ALJ's proposed decision denying the appellant's appeal of the denial of her reasonable accommodation. The Board did not adopt footnote one on page 4 of the proposed decision.

DONNA FAIAD, CASE NO. 02-1051

Appeal from dismissal
Program Technician
Employment Development Department

ACTION: The Board adopted the ALJ's proposed decision. Dismissal sustained.

XAVIER HILL, CASE NO. 03-3219

Appeal from dismissal
Caltrans Equipment Operator
Department of Transportation

ACTION: The Board adopted the ALJ's proposed decision. Dismissal sustained.

GARY LOO, CASE NO. 04-1173

Appeal from 20-working-days suspension
Highway Patrol Officer
California Highway Patrol

ACTION: The Board adopted the ALJ's proposed decision. 20-working-days suspension modified to 15-working-days suspension.

MICHAEL McGUIRE, CASE NO. 04-0490

Appeal from demotion
Program Director
Department of Developmental Services

ACTION: The Board rejected the ALJ's proposed decision. The Board will decide the matter.

MARC ROBERTSON, CASE NO. 04-0512E & 03-2961E

Appeal of discrimination and retaliation

Correctional Officer

California Men's Colony - San Luis Obispo

ACTION: The Board adopted the ALJ's proposed decision. Complaint of discrimination and retaliation denied.

MIRASOL TIRADO, CASE NO. 04-0264

Appeal from dismissal

Correctional Officer

Centinela State Prison - Imperial

ACTION: The Board adopted the ALJ's proposed decision. Dismissal sustained.

LUIS VALENZUELA, CASE NO. 04-0522

Appeal from dismissal

Correctional Officer

Centinela State Prison - Imperial

ACTION: The Board rejected the ALJ's proposed decision. The case was remanded back to the ALJ.

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

None

Proposed Decisions After Board Remand

RONALD BORTMAN, CASE NO. 03-3022PR

Appeal from five-percent reduction in salary for six months

Staff Psychiatrist (CF)

Pelican Bay State Prison - Crescent City

Department of Corrections

ACTION: The Board adopted the ALJ's proposed decision. Five-percent reduction for 6 months is sustained.

Proposed Decisions After SPB Arbitration

None

E. PETITIONS FOR REHEARING

ALJ Proposed Decisions Adopted By The Board

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

JOHN C. COTTER, CASE NO. 04-0178P

Appeal from 30-calendar-days suspension

Electrician

California State University - San Marcos

ACTION: Petition for rehearing filed by appellant denied.

SANDRA ESSEX, CASE NO. 04-0133P

Appeal from dismissal

Correctional Officer

Pelican Bay State Prison - Crescent City

ACTION: Petition for rehearing filed by appellant denied.

ERROL LEWIS, CASE NO. 04-0082P

Appeal from dismissal

Youth Correctional Counselor

Department of the Youth Authority

ACTION: Petition for rehearing filed by appellant denied.

MARC ROBERTSON, CASE NO. 01-2501P

Appeal from demotion

Correctional Sergeant

Department of Corrections

ACTION: Petition for rehearing filed by appellant denied.

BRUCE WELLS, CASE NO. 02-1954

Appeal from dismissal

Transportation Surveyor

Department of Transportation

ACTION: Petition for rehearing filed by appellant denied.

Whistleblower Notice of Findings

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

SHEILA HAWKINS, CASE NO. 04-2268P

Appeal from whistleblower retaliation
Private Post-secondary Education Administrator
Department of Consumer Affairs

ACTION: Petition for reconsideration filed by appellant denied. (Board member Sheehan recused herself.)

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

JENNIFER CADY, CASE NO. 03-3390E

Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice

No action

SHARON COHEN, CASE NO. 03-3389E

Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice

No action

JOHN A. CRUZ, CASE NO. 04-1376

Appeal from 60-calendar-days suspension
Automotive Equipment Operator I
California Department of Veterans Affairs

No action

NESSLIN CRUZ, CASE NO. 03-1854

Appeal from ten-work-days suspension
Employment Program Representative (Permanent/Intermittent)
Employment Development Department

No action

PRISCILA CRUZ, CASE NO. 04-0554E

Appeal from discrimination complaint
Clinical Laboratory Scientist
California Medical Facility - Vacaville
Department of Corrections

No action

**DON DOWLING, CASE NO. 04-1482 AND
ROGER HANSON, CASE NO. 04-1523**

Appeals from dismissal
Police Officers I
Department of Development Services
No action

DOREATHA FLEMING, CASE NO. 03-2274

Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
No action

JOHN FLORES, CASE NO. 03-2588

Appeal from discrimination and retaliation
Hospital Peace Officer I
Department of Mental Health
No action

HAJI JAMEEL, CASE NO. 04-0330

Appeal from discrimination
Supervising Transportation Engineer
California Public Utilities Commission
No action

JOE W. JORDAN, CASE NO. 04-0393

Appeal from discrimination
Youth Correctional Counselor
Department of Youth Authority
No action

KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542A

Appeal from denial of reasonable accommodation and from constructive
medical termination
Office Technician (General)
Department of Fish and Game
No action

SAMUEL SWEENEY, CASE NO. 04-0794

Appeal from 20-calendar-days suspension
Correctional Officer
California Institute for Men - Chico
Department of Corrections
No action

ANTHONY VEGAS, CASE NO. 03-2204

Appeal from dismissal
Parole Agent I (Adult Parole)
Department of Corrections - Stockton
No action

11. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION

(See Minutes - Pages 26 & 27)

12. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

JEFFREY HIBLER, CASE NO. 03-3478

Classification: Correctional Officer
Department: Corrections
ACTION: Denied

WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

ROGER BOSWORTH, CASE NO. 03-2631

Classification: Correctional Officer
Department: Corrections
ACTION: Withdrawn

JESSICA JULIUS, CASE NO. 04-0036

Classification: Correctional Officer
Department: Corrections
ACTION: Denied

EUGEN KUNSTMANN, CASE NO. 03-2926

Classification: Correctional Officer
Department: Corrections
ACTION: Denied

JASON STALLWORTH, CASE NO. 04-0220

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

ARTHUR CORPUZ, JR., CASE NO. 02-3500

Classification: Maintenance Worker, CHP

Department: California Highway Patrol (CHP)

ACTION: Granted

IVONA FELIX, Case No. 03-2171

Classification: Psychiatric Technician

Department: Mental Health

ACTION: Denied

SHAWNA NEWPORT, Case No. 03-2143

Classification: Medical Technical Assistant

Department: Corrections

ACTION: Denied

NORMAN ROY, Case No. 03-2611

Classification: Cadet, CHP

Department: California Highway Patrol

ACTION: Denied

ANTHONY SPARKS, CASE NO. 04-0922

Classification: Licensed Vocational Nurse

Department: Mental Health

ACTION: Denied

DAVID SUAREZ, Case No. 03-3354

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

LOREN SWENSON, Case No. 03-3699

Classification: Cadet, CHP

Department: California Highway Patrol

ACTION: Granted

LARS D. YAHR, CASE NO. 04-1227

Classification: State Park Ranger

Department: Parks and Recreation (DPR)

ACTION: Granted

C. EXAMINATION APPEALS/MINIMUM QUALIFICATIONS/MERIT ISSUE COMPLAINTS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

MARISA DUARTE, CASE NO. 03-2485

PAULA ESCALANTE, CASE NO. 03-2559

Classification: Associate Governmental Program Analyst

Department: Motor Vehicles

ACTION: Granted

ERIC HALLER; CASE NO. 03-2256

Classification: Caltrans Equipment Operator II

Department: Transportation

ACTION: Denied

CHARLIE HARRIS, CASE NO. 02-2960

Classification: Park Recreation Specialist

Department: Parks and Recreation

ACTION: Denied

MARIANO KRAMER 03-0424

Classification: Principal Safety Engineer

Department: Industrial Relations

ACTION: Denied

**D. RULE 212 OUT-OF-CLASS APPEALS
VOIDED APPOINTMENT APPEALS
RULE 211 APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

None

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

BRIAN BABINSKI, CASE NO. 03-2392

Classification: Committed offender housed at ASH

Department: Mental Health

ACTION: Denied

RICK CHAVEZ, CASE NO. 03-3782G

Classification: Equipment Operator

Department: Transportation

ACTION: Denied

BYRON DARRINGTON, CASE NO. 04-1100

Classification: Battalion Chief

Department: Forestry and Fire Protection

ACTION: Denied

DANNY DOMANOVICH, CASE NO. 03-3800

Classification: Former employee of the Franchise Tax Board

Department: Franchise Tax Board

ACTION: Denied

CAROLYN FERGUSON, CASE NO. 03-1462

Classification: Supervising Cook

Department: Corrections

ACTION: Denied

EDDIE HARRIS, CASE NO. 03-3535

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

RICHARD KNOLL, CASE NO. 03-3663

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

FRANCIS LABLANC, CASE NO. 03-3814

Classification: Committed offender housed at ASH

Department: Mental Health

ACTION: Denied

FRANCIS LABLANC, CASE NO. 04-0095

Classification: Committed offender housed at ASH

Department: Mental Health

ACTION: Denied

DOUG LARRISON, CASE NO. 04-0291

Classification: Automotive Equipment Operator I

Department: Corrections

ACTION: Denied

LOUIS MORALES, CASE NO. 04-0585

Classification: Correctional Sergeant

Department: Corrections

ACTION: Denied

PETITIONS FOR REHEARING CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

None

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

None

13. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code Section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is

scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

None

14. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

None

15. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Personnel Resources and Innovation Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Minutes in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Minutes reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) AGENCY CHIEF COUNSEL

The Health and Human Services Agency proposes to allocate the above position to the CEA category. The Agency Chief Counsel is responsible for formulating and analyzing significant policy issues that have legal implications, interpreting and articulating legal options and advising the Agency Secretary on courses of legal action consistent with Administration legal policy.

(2) DEPUTY DIRECTOR, EMERGENCY PREPAREDNESS OFFICE

The Department of Health Services proposes to allocate the above position to the CEA category. The Deputy Director, Emergency Preparedness Office is responsible for ensuring that all aspects of emergency preparedness and response management functions are in place to support the Department's mission to protect the health of the citizens of California.

(3) ASSISTANT DEPUTY DIRECTOR, EMERGENCY PREPAREDNESS OFFICE

The Department of Health Services proposes to allocate the above position to the CEA category. The Assistant Deputy Director, Emergency Preparedness Office is responsible for aiding the Deputy Director, Emergency Preparedness Office in defining and establishing policies impacting public health preparedness and emergency response to bio-terrorist/bio-hazardous activities and collaborates with state agencies.

(4) ASSISTANT SECRETARY, CALIFORNIA HEALTH CARE QUALITY AND COST CONTAINMENT COMMISSION

The California Health and Human Services Agency proposes to allocate the above position to the CEA category for a period of twenty-four months. The Assistant Secretary, California Health Care Quality and Cost Containment Commission is proposed to be on loan from the California Health and Human Services Agency to the Department of Managed Health Care. The incumbent will work closely with the Commission members, providing coordinated, cohesive policy guidance to allow for more effective planning for health care quality and cost containment programs and to support effective decision making.

(5) DEPUTY DIRECTOR, POLICY AND PROGRAM OPERATIONS

The Employment Development Department proposes to allocate the above position to the CEA category. The Deputy Director, Policy and Program Operations responsibilities include the oversight of the activities of the nine critical Employment Training Panel Units, customer and stakeholder needs, employment training issues, and developing and recommending timely and appropriate program policies.

(6) CHIEF INFORMATION OFFICER

The Victim Compensation and Government Claims Board proposes to allocate the above position to the CEA category. The Chief Information Officer will oversee the formulation of policy and have decision-making authority for all Information Technology related activities.

(7) SPECIAL ASSISTANT TO THE UNDERSECRETARY

The Department of Youth Authority on behalf of the Youth and Adult Correctional Agency proposes to allocate the above position to the CEA category. The Special Assistant to the Undersecretary will be responsible for the evaluation, formulation, coordination and implementation of policies and procedures that have a direct relation to the Youth and Adult Correctional Agency and subordinate departments.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

**(1) ASSISTANT PROGRAM BUDGET MANAGER,
CORRECTIONS/GENERAL GOVERNMENT UNIT**

The Department of Finance's request to allocate the above position has been approved effective October 22, 2004.

ACTION: Noted

16. WRITTEN STAFF REPORT FOR BOARD INFORMATION

**A. ANNUAL CENSUS OF EMPLOYEE'S IN THE STATE CIVIL SERVICE,
2002 - 2004 FISCAL YEARS**

Government Code Sections 19237, 19405, 19705, 19792.5(b) and 19793 requires the State Personnel Board to provide the Governor and the Legislature with an Annual Report regarding the state civil service

workforce. This report covers the 2002-2004 fiscal years. SPB staff is requesting the Board to approve this report for submission to the Governor and the Legislature.

None

17. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

None

A D J O U R N M E N T

SUBMITTED

TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

No action

VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

No action

TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

No action

HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

No action

HEARING - ELIGIBILITY OF DISMISSED STATE EMPLOYEES TO TAKE EXAMINATIONS

State Personnel Board staff is proposing to amend Rule § 211, to comply with Assembly Bill (AB) 577, Statutes of 2003, Chapter 836, which enacted Government Code § 18941. (Hearing held November 3, 2004.)

No action

HEARING - Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004).

No action

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on December 1-2, 2004.

VOTE: Elkins, Alvarado, Harrigan, Tom, Sheehan - Aye

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board

CORRECTION

The November 3, 2004, Agenda and Minutes had an incorrect case number listed for the following appellant. The correct case number is shown below.

RICHARD DELGADO, CASE NO. 03-3659
Correctional Officer
Department of Corrections